Texas Department of Insurance
Division of Workers' Compensation
Medical Fee Dispute Resolution, MS-48
7551 Metro Center Drive, Suite 100 • Austin, Texas 78744-1645
512-804-4000 telephone • 512-804-4811 fax • www.tdi.texas.gov

MEDICAL FEE DISPUTE RESOLUTION FINDINGS AND DECISION

GENERAL INFORMATION

Requestor Name and Address

CITIZENS MEDICAL CENTER
2701 HOSPITAL DRIVE
VICTORIA TX 77901

Carrier's Austin Representative Box
Box Number 19

MFDR Date Received
May 11, 2009

Respondent Name
ZURICH AMERICAN INSURANCE CO

MFDR Tracking Number
M4-09-8076-01

REQUESTOR'S POSITION SUMMARY

Requestor's Position Summary: "The above referenced claim is denied due to lack of authorization. The request for reconsideration filed to Zurich American Insurance Company with enclosed documentation was also denied due to lack of authorization. This patient was an emergency ICU admission on a Friday, following an injury at work. Typically, authorization is not required on an emergency admission. Our client contacted the employer on 10/7/08 and obtained the claim number. Our client then received a call from Sandy with the Zurich catastrophic injury department on 10/8/08 who requested extent of injury information and stated she would forward the information to the regular work comp department to contact the hospital if any clinical information was required. The hospital did not receive a request from Zurich for any additional information until 10/10/08, when Marilyn called requesting the discharge date and the patient's physician information so that follow up could be done with the physician. There was never a request for any clinical information from Zurich; however, they were aware of this admission and the patient's condition due to information provided to Sandy on 10/8/08. Enclosed please find a copy of the hospital business record documenting contact with the employer and Zurich, a copy of the UB-04, itemized bill, full medical record, the original denial from Zurich, a copy of the hospital's request for reconsideration and the second EOR from Zurich upholding the denial due to lack of authorization. It does not appear all information was considered by Zurich in the denial of this claim."

Amount in Dispute: $80,288.05

RESPONDENT'S POSITION SUMMARY

Respondent's Position Summary: "The requestor contends that the hospital admission beginning on 10/3/08 and continuing through 10/9/08 was 'emergency' health care and not subject to preauthorization. Rule 133.2 (a) (4) defines 'emergency' as follows: Emergency—Either a medical or mental health emergency as follows: (A) a medical emergency is the sudden onset of a medical condition manifested by acute symptoms of sufficient severity, including severe pain, that the absence of immediate medical attention could reasonably be expected to result in: (i) placing the patient's health or bodily functions in serious jeopardy, or (ii) serious dysfunction of any body organ or part; (B) a mental health emergency is a condition that could reasonably be expected to present danger to the person experiencing the mental health condition or another person. The carrier does not concede that the health care was indeed of an emergency nature. But, assuming for the sake of argument, that the admit was an emergency, did the emergency nature continue for well over a week? Rule 134.600(p) requires that a provider go through preauthorization procedures for 'inpatient hospital admissions, including the principal scheduled procedure(s) and the length of stay.' The provider did not do so in this case."

Response Submitted by: Flahive, Ogden & Latson, 504 Lavaca, Suite 1000, Austin, TX 78701

SUMMARY OF FINDINGS

Dates of Service	Disputed Services	Amount In Dispute	Amount Due
October 3, 2008 To October 9, 2008	Inpatient Hospital Surgical Services	$80,288.05	$19,762.37

FINDINGS AND DECISION

This medical fee dispute is decided pursuant to Texas Labor Code §413.031 and all applicable, adopted rules of the Texas Department of Insurance, Division of Workers' Compensation.

Background

1. 28 Texas Administrative Code §133.307 sets out the procedures for resolving a medical fee dispute.
2. 28 Texas Administrative Code §134.404 sets out the guidelines for reimbursement of hospital facility fees for inpatient services.
3. 28 Texas Administrative Code §134.600 requires preauthorization for specific treatments and services.
4. 28 Texas Administrative Code §133.2, defines a medical emergency.
5. 28 Texas Administrative Code §180.22, sets out health care providers roles and responsibilities.
6. 28 Texas Administrative Code §134.404(e) states that: "Except as provided in subsection (h) of this section, regardless of billed amount, reimbursement shall be:
   (1) the amount for the service that is included in a specific fee schedule set in a contract that complies with the requirements of Labor Code §413.011; or
   (2) if no contracted fee schedule exists that complies with Labor Code §413.011, the maximum allowable reimbursement (MAR) amount under subsection (f) of this section, including any applicable outlier payment amounts and reimbursement for implantables."
   (3) If no contracted fee schedule exists that complies with Labor Code §413.011, and an amount cannot be determined by application of the formula to calculate the MAR as outlined in subsection (f) of this section, reimbursement shall be determined in accordance with §134.1 of this title (relating to Medical Reimbursement).
7. 28 Texas Administrative Code §134.404(f) states that "The reimbursement calculation used for establishing the MAR shall be the Medicare facility specific amount, including outlier payment amounts, determined by applying the most recently adopted and effective Medicare Inpatient Prospective Payment System (IPPS) reimbursement formula and factors as published annually in the Federal Register. The following minimal modifications shall be applied.
   (1) The sum of the Medicare facility specific reimbursement amount and any applicable outlier payment amount shall be multiplied by:
      (A) 143 percent; unless
      (B) a facility or surgical implant provider requests separate reimbursement in accordance with subsection (g) of this section, in which case the facility specific reimbursement amount and any applicable outlier payment amount shall be multiplied by 108 percent."
8. The services in dispute were reduced/denied by the respondent with the following reason codes:

   Explanation of benefits dated November 24, 2008
   - 197– PAYMENT DENIED/REDUCED FOR ABSENCE OF PRECERTIFICATION/AUTHORIZATION.
   - 240 – PREAUTHORIZATION NOT OBTAINED.

   Explanation of benefits dated January 28, 2009
   - 197– PAYMENT DENIED/REDUCED FOR ABSENCE OF PRECERTIFICATION/AUTHORIZATION.
   - 240 – PREAUTHORIZATION NOT OBTAINED.
   - 282– THE INSURANCE COMPANY IS REDUCING OR DENYING PAYMENT AFTER RECONSIDERING A BILL.
   - W1 – WORKERS COMPENSATION STATE FEE SCHEDULE ADJUSTMENT.
   - ***DENIED—NO PREAUTHORIZATION OBTAINED

Issues

1. Did the services in dispute meet the criteria to sufficiently support a medical emergency in accordance with 28 Texas Administrative Code §133.2?
2. Can the maximum allowable reimbursement (MAR) amount for the disputed services be determined according to 28 Texas Administrative Code §134.404(f)?

3. Did the facility or a surgical implant provider request separate reimbursement for implantables in accordance with 28 Texas Administrative Code §134.404(g)?
4. Is the requestor entitled to additional reimbursement for the disputed services?

Findings

1. The respondent denied the disputed services with denial reason codes: 197—Payment denied/reduced for absence of precertification/authorization; 240—Preauthorization not obtained; 282—The insurance company is reducing or denying payment after reconsidering a bill; and W1—Workers Compensation State Fee Schedule adjustment. The requestor's position statement states, "This patient was an emergency ICU admission on a Friday, following an injury at work. Typically, authorization is not required on an emergency admission." The respondent's position statement asserts that "The carrier does not concede that the health care was indeed of an emergency nature. But, assuming for the sake of argument, that the admit was an emergency, did the emergency nature continue for well over a week?" 28 Texas Administrative Code §180.22(c) states, in pertinent part, that "The treating doctor shall: (1) except in the case of an emergency, approve or recommend all health care rendered to the employee…" 28 Texas Administrative Code §133.2(a)(4)(A) states that "a medical emergency is the sudden onset of a medical condition manifested by acute symptoms of sufficient severity, including severe pain, that the absence of immediate medical attention could reasonably be expected to result in: (i) placing the patient's health or bodily functions in serious jeopardy, or (ii) serious dysfunction of any body organ or part." Review of the submitted documentation finds:

    - The emergency physician record states "context: Large boulder fell on hard hat from above, cracked in ½, pt unconscious 6 min."
    - The emergency physician record states "associated symptoms: lost consciousness…duration: 6 min."
    - The emergency physician history & physical exam record dated October 3, 2008 states, "He was working here locally and a large boulder or very hard dirt clod fell from an auger and…basically cracked the metal hardhat in half, and he was rendered unconscious for roughly about six minutes... He was brought to the trauma room here…ASSESSMENT: 1. My impression is the patient has evidence of a traumatic C4 vertebral body burst fracture with neck pain. 2. Cerebral concussion with loss of consciousness, short duration. PLAN: He…has a fracture of the bilateral lamina of C4, indicating that this is a three-column injury and an unstable injury. We are going to need to get him set up with a magnetic resonance imaging scan and some follow-up x-rays, and probably he will need surgical intervention. This may actually require a 360-degree stabilization surgery…"
    - The pre-operative notes by physician states, "Pre-Operative Diagnosis: Cervical four spine fracture with spinal instability."
    - The pre-operative notes by physician states "Planned Surgical Procedure: Anterior cervical fusion cervical three, four and five."
    - The Operative Report states, "Operation: 1) Microscopic anterior cervical diskectomy C3-4 and C4-5 with complete corpectomy C4, ventral spinal canal decompression. 2) Anterior cervical interbody arthrodesis C3-4 and C-45 using 23-millimeter stackable Cornerstone cage packed with autologous blood and demineralized bone protein. 3) Anterior cervical segmental instrumentation fusion C3-4-5 using Danek Atlantis plate, #40.0-millimeter, 4) Intraoperative microscopy."
    - The requestor's business record telephone contact log shows initial contact was made with the respondent on October 4, 2008 in an attempt to ascertain carrier contact information.

    The requestor has supported the sudden onset of a medical condition manifested by acute symptoms of sufficient severity, including severe pain, that the absence of immediate medical attention could reasonably be expected to result in placing the patient's health or bodily functions in serious jeopardy, or serious dysfunction of a body organ or part. The division finds that, having demonstrated a case of emergency, the requestor has met the exception to the requirement that the treating doctor shall approve or recommend all health care rendered to the employee. The Division concludes that the respondent's denial reasons are not supported. The disputed services will therefore be reviewed per applicable rules and fee guidelines.
2. Review of the submitted documentation finds that the maximum allowable reimbursement (MAR) amount for the disputed services can be determined according to 28 Texas Administrative Code §134.404(f).
3. Review of the submitted documentation finds no request for separate reimbursement of implantables in accordance with 28 Texas Administrative Code §134.404(g).
4. Reimbursement for the disputed services is calculated in accordance with 28 Texas Administrative Code §134.404(f)(1)(A) as follows: The Medicare facility-specific reimbursement amount including outlier payment amount for DRG 472 is $13,819.84. This amount multiplied by 143% is $19,762.37.The total maximum allowable reimbursement (MAR) is therefore $19,762.37. The respondent previously paid $0.00, therefore an amount of $19,762.37 is recommended for payment.

Conclusion

For the reasons stated above, the division finds that the requestor has established that reimbursement is due. As a result, the amount ordered is $19,762.37.

ORDER

Based upon the documentation submitted by the parties and in accordance with the provisions of Texas Labor Code Sections 413.031 and 413.019 (if applicable), the Division has determined that the requestor is entitled to reimbursement for the services involved in this dispute. The Division hereby ORDERS the respondent to remit to the requestor the amount of $19,762.37 plus applicable accrued interest per 28 Texas Administrative Code §134.130, due within 30 days of receipt of this Order.

Authorized Signature

		July 19, 2012
Signature	Medical Fee Dispute Resolution Officer	Date
		July 19, 2012
Signature	Medical Fee Dispute Resolution Manager	Date

YOUR RIGHT TO REQUEST AN APPEAL

Either party to this medical fee dispute may appeal this decision by requesting a contested case hearing. A completed **Request for a Medical Contested Case Hearing** (form **DWC045A**) must be received by the DWC Chief Clerk of Proceedings within **twenty** days of your receipt of this decision. A request for hearing should be sent to: Chief Clerk of Proceedings, Texas Department of Insurance, Division of Workers Compensation, P.O. Box 17787, Austin, Texas, 78744. The party seeking review of the MDR decision shall deliver a copy of the request for a hearing to all other parties involved in the dispute at the same time the request is filed with the Division. **Please include a copy of the *Medical Fee Dispute Resolution Findings and Decision*** together with any other required information specified in 28 Texas Administrative Code §148.3(c), including a **certificate of service demonstrating that the request has been sent to the other party**.

Si prefiere hablar con una persona en español acerca de ésta correspondencia, favor de llamar a 512-804-4812.